

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No. EB-08-IH-0600
)	
WIRELESS)	NAL/Acct. No. 200832080094
TELECOMMUNICATIONS, INC.)	
)	FRN No. 0005023817
Licensee of Various Authorizations in the)	
Broadband Radio Service)	

ORDER

Adopted: September 5, 2008

Released: September 5, 2008

By the Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Wireless Telecommunications Inc. (“WTCI”). The Consent Decree terminates an investigation by the Bureau against WTCI for possible violations of Section 310(d) of the Communications Act of 1934, as amended,¹ and of Section 1.948 of the Commission’s Rules,² regarding possible unauthorized transfers of control of Commission authorizations.

2. The Bureau and WTCI have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether WTCI possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

¹ See 47 U.S.C. § 310(d).

² 47 C.F.R. § 1.948.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,³ and sections 0.111 and 0.311 of the Commission's Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that WTCI shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by mailing a check or similar instrument payable to the order of the Federal Communications Commission, to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). WTCI will also send electronic notification on the date said payment is made to Ben.Bartolome@fcc.gov, and Gary.Oshinsky@fcc.gov.

8. **IT IS FURTHER ORDERED** that WTCI will file reports with the Commission ninety days after the Effective Date, twelve months after the Effective Date, and annually for a period of three years thereafter. Each report shall include a compliance certificate from an officer, as an agent of WTCI, stating that the officer has personal knowledge that WTCI has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's compliance certification. All reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

³ 47 U.S.C. § 154(i), 503(b).

⁴ 47 C.F.R. §§ 0.111, 0.311.

9. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Robert J. Keller, Esq., Law Offices of Robert J. Keller, P.C., P.O. Box 33428 - Farragut Station, Washington, D.C. 20033-0428.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No. EB-08-IH-0600
)	
Wireless Telecommunications, Inc.)	NAL/Acct. No. 200832080094
)	
Licensee of Various Authorizations in the)	FRN No. 0005023817
Broadband Radio Service)	

CONSENT DECREE

The Enforcement Bureau (“Bureau”) of the Federal Communications Commission and Wireless Telecommunications, Inc. (“WTCI” or the “Company”) hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether WTCI violated Section 310(d) of the Communications Act of 1934, as amended,⁵ and Section 1.948 of the Commission’s Rules,⁶ regarding unauthorized transfers of control of Commission authorizations.

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Balun” means Thomas M. Balun, principal shareholder of WTCI, and includes his heirs, successors, and assigns.
 - (c) “Bankruptcy Case” means *In re Wireless Telecommunications, Inc., and Wireless Ventures III, Inc.*, Case No. 5-02-03994 (and, prior to September 12, 2002, Case No. 1-00-02188) filed and currently pending in the Bankruptcy Court.
 - (d) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (e) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (f) “Court” or “Bankruptcy Court” means the United States Bankruptcy Court for the Middle District of Pennsylvania with jurisdiction over the Bankruptcy Case.

⁵ See 47 U.S.C. § 310(d).

⁶ 47 C.F.R. § 1.948.

- (g) “Effective Date” means the date on which the Commission releases the Adopting Order.
- (h) “Investigation” means the investigation initiated on November 28, 2007, by the Bureau into whether WTCI violated Section 310(d) of the Communications Act of 1934, as amended,⁷ and Section 1.948 of the Commission’s Rules, regarding possible unauthorized transfers of control of Commission authorizations.
- (i) “King” means Leroy A. King, Jr., and Kathy Parks King, who were former minority shareholder(s) of WTCI.
- (j) “Licenses” means collectively the incumbent station licenses and Basic Trading Area (BTA) authorizations listed in Attachment A to this Consent Decree.
- (k) “Master Settlement Agreement” means the agreement, dated June 3, 2005, between, *inter alia*, WTCI and the FCC, as approved by the Bankruptcy Court on December 6, 2005. Order Approving Settlement With the Federal Communications Commission (Bankr. M.D. Pa.; December 6, 2005).
- (l) “Order” or “Adopting Order” means an Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (m) “Parties” means WTCI and the Bureau. “Party” means any one of the foregoing entities.
- (n) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (o) “Stock Pledge Agreement” means the agreement, dated September 8, 1995, pledging Balun’s WTCI shares as security for personal indebtedness to King, and granting King the right to vote the pledged shares in the event of a default, unless prohibited by law.
- (p) “WTCI” and “Licensee” means Wireless Telecommunications, Inc. and its successors-in-interest and assigns.

II. BACKGROUND

2. WTCI is the licensee of six BTA Authorizations in the Broadband Radio Service, and five incumbent station licenses, as listed in Attachment A. WTCI acquired the BTA Authorizations as a result of successful bidding in Spectrum Auction No. 6 and participated in the Commission’s installment payment plan. On November 28, 2007, the Bureau initiated the

⁷ See 47 U.S.C. § 310(d).

Investigation into whether WTCI, which was granted bankruptcy protection on June 9, 2000,⁸ had engaged in possible unauthorized transfers of control of its Licenses. Specifically, the Investigation focused on whether, in July 2003, King assumed control of WTCI from Balun, the former president, pursuant to the Stock Pledge Agreement without prior Commission consent.⁹ The information before the Bureau further suggested that, in September 2006, Balun reassumed control of WTCI, by redeeming his pledged shares under the Stock Pledge Agreement, also without prior Commission consent.¹⁰

III. TERMS OF AGREEMENT

3. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

4. **Jurisdiction.** The parties acknowledge: (a) that the Commission has jurisdiction over WTCI and the matters that are the subject of this Consent Decree; (b) that WTCI has the authority to enter into and adopt this Consent Decree; provided however, that WTCI must seek and obtain prior approval of the Bankruptcy Court as provided in Paragraph Eight herein; and (c) that WTCI's entry into the Consent Decree falls within the regulatory and police power exception to 11 U.S.C. § 362(b)(4).

5. **Effective Date: Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. Upon the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

6. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. WTCI understands that the Bureau's commitment to terminate the investigation is conditioned upon WTCI's compliance with its obligations as set forth in this Consent Decree, including WTCI's obligation to seek and obtain Bankruptcy Court

⁸ On June 9, 2000, the Court issued an order for relief, placing WTCI into involuntary bankruptcy. *See Order for Relief Under Chapter 7* (Case No. 1-00-02188; Bankr. M.D. Pa., June 9, 2000). On August 11, 2000, the FCC consented to the involuntary *pro forma* transfer of control of WTCI to the Court-appointed trustee. *See* FCC File No. BTCMD-20000607AAD, Public Notice, *Wireless Telecommunications Bureau, Transfers/Assignments/Spectrum Leases – Actions*, Report No. 2800 (August 16, 2000) at p.17. On July 18, 2003, the Court authorized the conversion of the Chapter 7 case to a Chapter 11 case, and authorized the debtor-in-possession to replace the court-appointed Chapter 7 trustee. WTCI filed a timely application for transfer of control from the trustee to the debtor-in-possession. *See* FCC File No. 20030804AA.

⁹ The Stock Pledge Agreement, dated September 8, 1995, allowed King to vote the controlling stock of the Company in the event of a default on a promissory note by Balun, subject to King's compliance with all applicable FCC regulations.

¹⁰ In 2006, Balun entered into an agreement with King to redeem the shares pledged to King under the Stock Pledge Agreement and also purchased King's minority shares. Balun then resumed his position as controlling principal and President of WTCI. *See* Stock Purchase Agreement, dated September 8, 2006. Both transfers of control occurred without Commission consent.

approval as provided in Paragraph Eight herein; WTCI making the voluntary payment as provided herein following receipt of such approval; and there being no successful challenge, at any time, to WTCI's right to make such payment. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against WTCI concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against WTCI with respect to WTCI's basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission authorizations.¹¹

7. **Voluntary Contribution.** WTCI agrees that, subject to Bankruptcy Court approval as provided in Paragraph Eight herein, it shall undertake the obligation to make a voluntary contribution to the United States Treasury in the amount of One Hundred Thousand Dollars (\$100,000). WTCI shall, within three (3) business days of the later of (i) the Effective Date, or (ii) the date on which the Bankruptcy Court approval described in Paragraph Eight herein has become final and non-appealable, (a) make a payment toward this obligation in the amount of Thirty Five Thousand Dollars (\$35,000) (hereinafter, the "Initial Payment"), and (b) provide to the FCC an executed promissory note in the principal amount of Sixty Five Thousand Dollars (\$65,000), in a form substantially the same as and on the terms and conditions specified in Attachment B hereto (hereinafter, the "Promissory Note"). The voluntary contribution relates solely to WTCI's liability for regulatory violations described in this Consent Decree and does not represent compensation for pecuniary loss. The voluntary contribution paid by WTCI pursuant to this Consent Decree is independent of, and shall not constitute a credit or setoff, to any debt owed by WTCI to the FCC, in connection with the Bankruptcy Case, including but not limited to the FCC Claim as defined in the Master Settlement Agreement.

8. **Bankruptcy Court Authorization of Voluntary Contribution.** WTCI shall, no later than two (2) business days after the parties have executed this Consent Decree, submit a request for requisite Bankruptcy Court approval (a) to make and issue the Promissory Note; (b) to make the Initial Payment described above; and (c) for debtor-in-possession financing (a "DIP Loan") in the amount of Twenty Five Thousand Dollars (\$25,000). WTCI further agrees to take all steps necessary in good faith to secure and, if necessary, defend its right to make the voluntary contribution to the FCC. The Parties hereby acknowledge that, notwithstanding the need for such approval, the Bankruptcy Court does not have jurisdiction over the FCC Investigation, enforcement proceeding, or any other matter within the exclusive regulatory jurisdiction of the FCC.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, WTCI agrees to implement a Compliance Plan related to WTCI's future compliance with the Act, the

¹¹ This consent decree is without prejudice to any issues raised by Utopian Wireless Corporation in FCC File No. 0003130320 as to the proposed assignment of the incumbent BRS licenses from Wireless Telecommunications, Inc., Debtor-in-Possession to VTel Wireless, Inc., a subsidiary of Vermont Telephone Co., Inc.

Commission's Rules, and the Commission's Orders. The Plan will include, at a minimum, the following components:

Designation of Responsible Individual. Within ten (10) business days of the Effective Date, WTCI shall designate an individual to serve as its compliance officer, who shall be responsible for the Compliance Plan. In discharging such duties, the compliance officer shall consult with and be assisted by: (a) outside FCC regulatory counsel; and (b) during such time as WTCI is operating as a Debtor-in-Possession, subject to the jurisdiction of the Bankruptcy Court, the Chief Restructuring Officer approved by the Court.

Education Program. Within 30 days of the Effective Date, WTCI shall arrange for all officers and directors of WTCI to be fully briefed by outside regulatory counsel regarding FCC requirements for license ownership and transfers of control, including the FCC's rules and the requirements of the Act regarding the need for prior approval of assignments of FCC authorizations and the transfer of control of the holders of such authorizations. With the assistance of outside regulatory counsel, WTCI shall monitor and review any future changes to these requirements. WTCI will also ensure that all future officers and directors, as well as any future WTCI employees who will have responsibility for transactions involving FCC licenses, are so briefed as to the requirements and future developments in this regard.

10. Compliance Reports. WTCI shall file Compliance Reports with the Commission 90 days after the Effective Date, twelve months after the Effective Date, and annually for a period of two (2) years thereafter. Each compliance report shall include a compliance certificate from an officer, as an agent of WTCI, stating that the officer has personal knowledge that WTCI has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's compliance certification. The Compliance Report shall include a list identifying any transaction during the previous twelve month period to which WTCI was a party that involved the transfer of control or assignment, within the meaning of Section 310(d) of the Communications Act, of any FCC license, providing at a minimum the call sign(s) of the authorization(s) and the names of the parties involved in the transaction. The Compliance Report shall include a certification that, as to each such listed transaction, a timely filing was made seeking prior FCC consent to or notifying the FCC of such transaction, as required by and in accordance with Section 310(d) of the Communications Act and pertinent FCC regulations, including the file number(s), call sign(s), submission date(s), and other information sufficient to identify the regulatory filing. If, for any reason, WTCI is unable to so certify, the Compliance Report shall include a full explanation. All compliance reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

11. Payment. The foregoing Initial Payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission, and shall be made without protest or recourse. The payment must include the NAL/Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-

9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). WTCI will also send electronic notification on the date said payment is made to Ben.Bartolome@fcc.gov, and Gary.Oshinsky@fcc.gov

12. **Independent Obligation.** WTCI agrees that the terms and conditions of this Consent Decree, and its obligations to comply therewith apply without regard to, and are independent of, the outcome of the Bankruptcy Case and any proposed transfer or other disposition of the Licenses by WTCI.

13. **Waivers.** WTCI waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion; provided, however, that this provision shall not preclude WTCI from seeking Bankruptcy Court approval in accordance with Paragraph Eight of this Consent Decree. WTCI shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein, but only to the extent such terms apply to the challenging Party. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, none of the Parties shall contest the validity of the Consent Decree or the Adopting Order, and WTCI shall waive any statutory right to a trial *de novo*. WTCI hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

14. **Severability.** The Parties agree that if any of the provisions of the Adopting Order or the Consent Decree shall be invalid or unenforceable, such invalidity or unenforceability, at the sole discretion of the Commission, shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. To the extent that WTCI fails to satisfy any condition, including but not limited to those contained in Paragraphs 7-10, in the absence of Commission alteration of the condition, it will be in breach of the provisions of the Consent Decree, and may be subject to enforcement action, including, but not limited to, revocation of the forbearance relief granted herein, designation of the matter for license revocation hearing, admonishment, or forfeiture. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

15. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which WTCI does not expressly consent) that provision will be superseded by such Commission rule or Order.

16. **Successors and Assigns.** WTCI agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

17. **Final Settlement.** The Parties agree and acknowledge that upon its Effective Date, this Consent Decree shall constitute a final settlement between the Parties with respect to the matters set forth herein. The Parties further agree that this Consent Decree does not constitute either adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission's Rules and Orders.

18. **Modifications.** This Consent Decree cannot be modified without the written consent of the Parties.

19. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

20. **Authorized Representative.** Each of the Parties represents and warrants to the others that it/he has full power and authority to enter into this Consent Decree, subject to the respective approvals by the Bankruptcy Court and the FCC, as specified herein.

21. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Kris Anne Monteith
Chief, Enforcement Bureau

Neil Gilmour, III
President and Chief Restructuring Officer
Wireless Telecommunications Inc.

Date

Date

Thomas M. Balun
Vice President
Wireless Telecommunications Inc.

Date

Schedule A

Call Sign	Licensee	Market or Location	Frequencies	Exp. Date
B227	Wireless Telecommunications, Inc.	BTA 227; Keene NH	BRS/BTA Block in the 2150-2690 MHz Band	03/28/2006*
B249	Wireless Telecommunications, Inc.	BTA 249; Lebanon—Claremont NH	BRS/BTA Block in the 2150-2690 MHz Band	03/28/2006*
B266	Wireless Telecommunications, Inc.	BTA 266; Lynchburg VA	BRS/BTA Block in the 2150-2690 MHz Band	03/28/2006*
B342	Wireless Telecommunications, Inc.	BTA 342; Parkersburg WV—Marietta OH	BRS/BTA Block in the 2150-2690 MHz Band	03/28/2006*
B398	Wireless Telecommunications, Inc.	BTA 398; Salisbury MD	BRS/BTA Block in the 2150-2690 MHz Band	03/28/2006*
B406	Wireless Telecommunications, Inc.	BTA 406; Santa Barbara—Santa Maria CA	BRS/BTA Block in the 2150-2690 MHz Band	03/28/2006*
WLK341	Wireless Telecommunications, Inc., Debtor-in-Possession	Rutland, VT	BRS E1: 2596-2602 MHz BRS E2: 2608-2614 MHz BRS E3: 2620-2626 MHz BRS E4: 2632-2638 MHz	05/01/2011
WMH308	Wireless Telecommunications, Inc., Debtor-in-Possession	Cornwall, VT	BRS E1: 2596-2602 MHz BRS E2: 2608-2614 MHz BRS E3: 2620-2626 MHz BRS E4: 2632-2638 MHz	05/01/2011
WMH868	Wireless Telecommunications, Inc., Debtor-in-Possession	Rutland, VT	BRS 1: 2150-2156 MHz	05/01/2011

* Applications for renewal filed on April 18, 2006, within thirty days of expiration, accompanied by *Request for Waiver of Section 1.949(a) of the Commission's Rules*. FCC File Nos. 0002576443 (B227), 0002576439 (B249), 0002576440 (B266), 0002576444 (B342), 0002576441 (B398), and 0002576442 (B406).

WMI34 3	Wireless Telecommunications, Inc., Debtor-in-Possession	Rutland, VT	BRS 2A: 2156- 2160 MHz	05/01/20 11
WNTI8 56	Wireless Telecommunications, Inc., Debtor-in-Possession	Rutland, VT	BRS H1: 2650- 2656 MHz BRS H2: 2662- 2668 MHz BRS H3: 2674- 2680 MHz	05/01/20 11

Schedule B

PROMISSORY NOTE\$65,000Wilmington, DelawareSeptember , 2008

FOR VALUE RECEIVED, the undersigned, Wireless Telecommunications, Inc., (“WTCI”), Debtor in Possession in Case No. 5-02-03994 (JJT) (Bankr. M.D. Pa) (“the “Bankruptcy Case”), hereby unconditionally promises to pay to the order of the Federal Communications Commission, an independent regulatory agency of the United States (“Payee”), the principal sum of Sixty-Five Thousand Dollars (\$65,000), together with interest at the rate of eight percent (8%) per annum, compounded quarterly, until paid.

Accrued interest on this Note shall be paid on a quarterly basis, with the first interest payment to be made on December 1, 2008, and thereafter, on the first day of each March, June, September and December, until this Note is paid in full. If accrued interest is not paid when due, it shall be added to the principal balance of this Note, and shall accrue interest at the rate of 8% per annum until paid in full. WTCI may defer the payment of interest at its option as described above without creating a default under this Note.

This Note shall be paid in full on the earlier of (i) the second anniversary date of the date of this Note, or (ii) a demand in writing by the Payee for payment in full. Payee may demand that payment in full be made at any time prior to the second anniversary of the date of this Note if Payee reasonably determines that WTCI has sufficient funds to pay the full amount due hereunder. “Sufficient funds” is defined herein to mean cash, received by WTCI from whatever source, in the amount sufficient to pay the full amount of the FCC secured debt in accordance with the terms of the Master Settlement Agreement, and the full amount due under this Note, including the principal and any accrued but unpaid interest that is due under this Note. When WTCI has sufficient funds as defined herein, upon written demand, it shall make payment of this Note, including any accrued but unpaid interest that is due under this Note, immediately after WTCI has paid in full its secured debt to the FCC in accordance with the terms of the Master Settlement Agreement and such payment shall be made prior to the payment of the claim of any other creditor, secured or unsecured.

Payment shall be made in lawful money of the United States at the offices of the Federal Communications Commission in Washington, D.C., or such other place as Payee shall have designated in writing for such purpose. Payment in full shall be made promptly without demand on the second anniversary date of this Note. If payment is made pursuant to a demand in writing by the Payee prior to the second anniversary date of this Note, WTCI shall make such payment within three (3) business days of the receipt of said demand. This Note may be prepaid in whole or in part at any time without penalty. All prepayments shall be applied first to accrued interest, then the balance to principal.

The principal of and interest on this Note shall be paid without setoff or counterclaim and free and clear of and exempt from, and without deduction for or on account of, any present or future taxes, levies, imposts, duties, deductions, withholdings or other charges of whatsoever imposed.

If this Note is not paid in full on demand or upon the second anniversary date of this Note, as aforesaid, WTCI agrees to pay costs of collection and reasonable attorneys' fees. Further, the rate of interest which WTCI promises to pay shall be increased by two percent from the date of default until the date of payment in full.

The debt evidenced by this Note, including any accrued interest, shall not be dischargeable in the Bankruptcy case, or any other bankruptcy or other legal proceeding of WTCI and/or its successors (and/or assigns). This Note may not be assigned without the prior written consent of the Payee.

WTCI hereby waives trial by jury in any action or proceeding arising out of or pertaining to this note. WTCI makes this waiver knowingly, willing, and voluntarily. WTCI represents that no oral or written statements have been made by any party to induce this waiver of trial by jury or in any way to modify or nullify its stated effect. WTCI further represents that it has been represented by independent counsel, of its own choosing, in signing this note and in making this waiver, and that it has had the opportunity to discuss this waiver with such counsel.

WTCI hereby certifies and declares that all acts, conditions and things required to be done and performed and to have happened precedent to the execution and delivery of this Note and to constitute this Note a valid obligation of WTCI in accordance with its terms have been done, performed and have happened in accordance with all applicable laws.

Other than demand for payment set forth herein, WTCI hereby waives presentment, notice of dishonor, notice of protest and protest, and all other notices and demands in connection with the delivery, acceptance, performance or default of this Note.

Any demand for payment prior to the second anniversary date of this Note shall be made in writing to WTCI at the last known address used by WTCI as Debtor-in-Possession in the Bankruptcy Case. In addition, a copy of said demand shall be given to WTCI by delivery to WTCI's then-current bankruptcy counsel of record in the Bankruptcy Case. A notice shall be deemed to be delivered and effective (a) upon personal delivery, if delivered by hand or courier, (b) three (3) business days after the date of deposit in the mail, postage prepaid, if mailed by certified mail, or (c) the next business day if sent by facsimile transmission (if receipt is electronically confirmed).

This Note and any disputes arising thereunder shall be construed and enforced in accordance with, and governed by, the laws of the United States, including but not limited to federal common law.

The Parties intend every provision of this Note to be severable. If any provision of this Note is held to be illegal, invalid, or unenforceable for any reason, the parties intend that a court enforce the provision to the maximum extent permissible so as to effect the intent of the parties (including the enforcement of the remaining provisions). If necessary to effect the intent of the parties, the parties will negotiate in good faith to amend this Note to replace the unenforceable provision with an enforceable provision that reflects the original intent of the parties.

IN WITNESS WHEREOF, the undersigned corporation has executed this Promissory Note by its duly authorized officer.

Attest: WIRELESS
TELECOMMUNICATIONS, INC.

Neil Gilmour III
President and Chief Restructuring Officer